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SUMMARY OF REPLIES TO SELECTED MIS INQUIRIES

What topics have been of interest to MIS subscribers and how has MIS replied to inquiries on these topics?

Management Information Service is now in its 13th year. Besides preparing monthly reports on timely subjects, MIS answers 100 inquiries a month from more than 1,000 subscribers. Answers point out trends, recommend examples of good practice, suggest possible courses of action, recommend references, and frequently include the loan of books, pamphlets, and other materials from the MIS library. This report summarizes replies to some of the inquiries in which particular interest has been shown during the past year. The summarized subjects are:

Selection of an Insurance Carrier
Financing Public Improvements
Municipal Regulation of Television
Regulation of Pleasure Boats
Anonymity of Complainants

Selection of an Insurance Carrier

When buying insurance a city is striving to get the best possible coverage at the lowest cost. This is easy to state, but it is difficult to put into practice without consideration of coverage, amount of protection, competitive bidding, and other factors. The principal factors which should be considered are discussed here.

Kinds of Insurance Coverage. For fire insurance the real and personal property of the city should be evaluated to see which major items need full coverage and which types of property need not be insured at all. It is often possible to be selective in fire insurance risks and thus to reduce the premium cost.

This approach generally is not possible for automobile liability and general public liability insurance. If insurance is carried it must be at the full coverage of the maximum liability amounts provided for in the policy. The entire question of municipal tort liability is extremely involved, but there is increasing evidence that cities are being held responsible for the growing variety of torts. The smaller cities, which may be faced with paying unpredictable and often very large judgements, cannot afford anything less than complete protection within their liability as prescribed by law.

Competitive Bidding. The use of competitive bidding for purchasing municipal insurance probably has been gaining ground in recent years, but it still applies only in a minority of cities. The 1956 *Municipal Year Book* reported that only 12 per cent of the cities over 10,000 population used competitive bidding for fire insurance and 25 per cent used competitive bidding for general and motor vehicle public liability insurance.

The only important obstacle to competitive bidding is the often powerful opposition from local insurance agents — a factor not to be taken lightly. Competitive bidding is recommended, however, for the advantages of lower net premiums, eliminating the task of choosing an agent, and allowing all companies and agents to compete on an equitable basis. The most important advantage of all is that competitive bidding forces the city to draft precise specifications on coverage, terms, and

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conditions. The specifications become part of the insurance contract in addition to the company policy this tailoring the terms to local needs.

The experience of cities often is that competitive bidding is easier to institute for burglary and theft, automobile liability, and general public liability insurance. Even on fire insurance, however, favorable bids can be received, under specified conditions, from mutuals and factory mutuals. MIS Report No. 74, *Procedure in Purchasing Municipal Insurance*, contains a complete description of competitive bidding for all major types of municipal insurance.

Nonassessable Policies. A city generally can purchase nonassessable mutual insurance if the city council expressly provides for this. If a policy with a mutual company is assessable, it often is limited to a deposit which, in turn, can be reinsured for a modest premium (see MIS Report No. 74).

Stock vs. Mutual Companies. The 1956 *Municipal Year Book* reports that stock companies underwrite all of the fire and public liability insurance in a majority of the cities of over 10,000 population and share the insurance business with mutual companies in most of the remaining cities.

Mutual companies often are able to offer better rates because of the differences in capital structure between stock and mutual companies. The capital stock insurance company is owned by a group of stockholders. As owners of the corporation they are entitled to dividends on the basis of net earnings. The mutual insurance company is organized as a cooperative with ownership in the hands of policyholders. Dividends are not paid as such, but the policyholders can receive cash refunds or reduced insurance rates based on the earning experience of the company. Mutual companies therefore often can offer insurance at lower premiums than stock companies can.

Financial Stability. The financial stability and past performance of the insurance company is of primary importance in protecting the city government in its insurance program. Each company is rated in *Best's Insurance Guide* on the basis of financial assets of the company and its ability to cover insured losses. An A rating usually is the lowest that is acceptable, and this should be stated (in bid specifications and otherwise) as a minimum qualification for any company to do business with the city. Many mutual companies as well as stock companies have ratings of AAA or AAAA.

If possible it helps to look behind the generalized rating symbol for a given company and consider other factors.

1. What is the scope of the company's business? Are the company's risks widely scattered across the country or are they concentrated in one or a few cities? Reasonably prompt service should be available for the investigation and settlement of claims.

2. How many years has the company been in business? A company of long experience usually can be expected to perform with greater reliability, both financial and managerial, than a newly developed company.

3. Some consideration should be given to the amount of diversification and liquidity of assets for the company. Does the company have a full legal reserve plan?

4. Some idea of the cost of operating the company can be gained from the ratio of losses to paid premiums.

5. If possible, some evaluation should be made of the general management of the company.

Service to the Policyholder. Evaluation of hazards, recommendations for coverage, and inspectional services often are stressed in insurance company advertising. In practice, however, most cities are in no position to benefit from such service. Too often the local agent is not qualified to provide technical and engineering service, and he has no incentive to recommend a coordinated insurance program which will reduce premiums. Insurance company representatives from district or headquarters offices cannot take the time to provide service for the comparatively small amount of business written for the typical city.

The best way to get outside, objective help is to contract with an insurance consulting organization which does not sell insurance. The consultant can provide an analysis of coverage, overinsured

and underinsured risks, major policy provisions, and competitive bidding (see MIS Report No. 74, *Procedure in Purchasing Municipal Insurance*).

Note: In addition to MIS Report No. 74, city officials should consult pages 412-426 of *Municipal Finance Administration*, published in 1955 by the International City Managers' Association.

Financing Public Improvements

Municipal subdivision regulations are quite general in requiring real estate developers to provide sewers, waterlines, streets, sidewalks, and other public facilities in large scale residential developments.

A different kind of problem, however, arises when a builder is erecting one or a few homes on scattered individual lots where some or all public facilities are not available. Often these home builders object strenuously to installing improvements at considerable expense for single building lots. Unless the private builder, however, is required to meet the same conditions set forth for the larger developments, the developer of subdivisions is quite justified in criticizing the city for being discriminatory.

The problem is the most vexing when the builder is erecting a dwelling which is several lots past the end of the utility line or street pavement and wishes to have the improvements extended to the single property. The extension of facilities should be financed so that adjoining property owners, who later erect dwelling units, do not receive a "free ride" either at the expense of the city government or at the expense of the property owner financing the improvements.

Several alternatives are available, but the best are those which, if possible, let the builder or the home buyer take the financial risk.

1. The home builder can assume all of the financial risk by paying for all of the service extensions and facilities needed to service the lot. In effect this means a person buying the home will be paying for the improvements.

2. The city can assess all abutting property owners. The adjoining property owners naturally will object strenuously for paying for improvements that do not directly benefit them.

3. The city can pay for the cost of improvements and collect from property owners as each individual lot is built upon. In this case the city is taking somewhat of a speculative risk on the assumption that houses will be built upon all of the lots within a reasonable period of time.

4. The home builder can assume the entire cost of extensions and improvements and be reimbursed as other lots are being built up. If houses are not built upon the vacant lots in a specified number of years the city would reimburse the property owner for the cost of the improvements, withholding a specified proportion for the services extended to his lot.

Method No. 4 has considerable merit because it requires the property owner to pay the city for the entire improvement cost which can be done on a front-foot basis. This would be done with the understanding that other property owners whose lots are improved by these extensions would pay for the improvements within a specified period of time (as set by the city) when the lots are built upon. The original property owner would then be entitled to a refund from the city in a proportion fixed by city ordinance. A fair proportion for each lot might be the ratio that the front footage of one lot bears to the total number of front feet for all lots in the serviced area.

For example, if a property is the third lot away from the end of the line, a pavement extension to this property would service three blocks on each side of the street or a total of six lots. If within the time stated in the ordinance, three more lots are built on and serviced by the city, the property owner originally building would be reimbursed for one-half of the installation costs of the improvements servicing the six lots. If all six lots were built upon within the period, the property would be refunded for all but one-sixth of the cost of the extensions.

Many cities have developed individual policies in the form of ordinances governing the provision of public improvements, paving streets, laying sidewalks, extending utility lines, and installing curbs

and gutters. Such ordinances, as a form of municipal policy, should be drawn in accordance with the planning program of the city, with due consideration for the needs and requirements of real estate developers.

Municipal Regulation of Television

Cities are increasingly concerned with the present and potential problems of regulating the various forms of television service. In addition to conventional television transmission, three types of special service are proposed or in effect in various cities: (1) the proposal for subscription television where the viewer selects and pays for specific programs; (2) community antennas to provide television reception in otherwise inaccessible areas; and (3) the transmission of movies from a local movie theatre to homes through television cables with the movies appearing on television screens.

Subscription Television. Certain television set manufacturers and other interests have petitioned the Federal Communications Commission for subscription television to be transmitted over the airways in competition with the free programs now being telecast.

One plan for transmitting subscription television is that advanced by the Zenith Radio Corporation. Under the Zenith plan, programs would be transmitted over the airways and received by the subscriber either after telephoning for special service or by placing coins in a coin box. The Skiatron Television Corporation and International Telemeter Corporation also are interested in the development of subscription television.

Community Antennas. Because the Federal Communications Commission has not approved the transmission of television programs on a fee basis over the airways, companies are showing more interest in the erection of cable distribution systems for the transmission of existing programs to inaccessible reception areas. Such systems fall outside of federal regulation and are usually subject only to municipal franchise requirements. These ground distribution systems are closed circuit and serve only the individuals who pay to subscribe. No frequency allocation is necessary. To date, the Federal Communications Commission has not chosen to regulate the price of telecast programs or other activities of television distribution systems.

In studies that have been made in California, the California Public Utilities Commission does not appear to have direct jurisdiction over television transmission through community antennas as a public utility. The state agency does prescribe overhead line construction regulations since such lines use existing utility poles. If a telephone company chooses to construct and operate a closed circuit system, the public utility status of such an operation, the question of the control of rates, and other aspects of regulation might fall under state public utility regulation. According to this legislative committee report, regulation is up to the municipality.

The second annual report of the Jerrold Electronics Corporation states that there are more than 550 community distribution systems extending television reception to 1,500,000 viewers in fringe areas of the United States. This reception is transmitted by way of cables to viewers subscribing to the service. The laying of such distribution cables is regulated by municipal franchises, and cities usually collect approximately 2 per cent of gross receipts from these operations. Subscription rates may or may not be controlled by the city and range from about $4 to $10 per month for home owners. An initial fee of about $100 per installation usually is charged.

In Palm Springs, California, one of the first such installations, the franchise requires a payment to the city of 2 per cent of gross receipts. Rates are approved by the city council, and the television distribution company is required to submit periodic financial reports. The franchise was granted for a term of 50 years and is exclusive as long as the city council continues setting rates charged by the company. Homes and apartments are charged $7 per month and $150 for installation. Most businesses are usually charged $250 for installation and $14 per month.

Home Movies. A trend is developing toward the transmission of movies by underground cables from a local movie house to television viewers. The Jerrold Electronics Corporation has just completed the installation for transmission of telemovies in Bartlesville, Oklahoma, by the Vumore Company, an affiliate of Vidio Independent Theaters. This system transmits first-run movies from

a local movie theater to television sets which have subscribed to the service at a fee of $9.50 per month. Similar installations are under way in El Dorado, Arkansas, by Clark and McWilliams Enterprises, and in Little Rock, Arkansas. In Los Angeles, franchise applications have recently been filed by Skiatron TV, Inc., Harriscope, Inc., and a joint application by Fox West Coast Theaters and International Telemeter, Inc.

In Bartlesville, a license has been granted for the construction, maintenance, and operation of the cable distribution system. The duration of the present license is three years, and the licensing provision states that it is not the intention of the license to grant exclusive rights to the telemovie firm. The license requires that the city be held harmless from any and all liability and requires the licensee to maintain up-to-date plats, maps, and records, showing the exact location of all cable distribution equipment in the city.

The licensee is required to carry workmen's compensation insurance; public liability insurance with limits of not less than $25,000 per person and $50,000 per accident; automobile liability insurance with limits of not less than $25/50,000; and automobile property damage insurance, with a limit of not less than $5,000.

The license fee paid to the city is $25 per year plus 1 per cent of the gross receipts from customers within the city. Similar provisions are contained in the El Dorado permit for the operation of a telemovie system within that city. The payments made to El Dorado by the licensee shall equal one-half of 1 per cent of gross receipts for connections to the first 1,500 homes; 1 per cent for connections exceeding 1,500 but less than 3,000; and 1 and one-half per cent of gross receipts for connections exceeding 3,000.

Los Angeles, in acting upon the franchise applications of three firms, has determined that one franchise should be awarded to the firm that gives the city the highest percentage of total gross receipts. The city has set a floor of 2 per cent as a minimum acceptable bid. In order to eliminate the possibility of an inactive franchise or having a grantee merely hold a franchise for his own interests, a provision is included that the installation of any closed-circuit system be undertaken within a two-year period following the award of the franchise. The franchise shall be nontransferable. The city reserves the right to inspect the property and records, to determine location of any franchise property installed by the grantee, to prescribe terms and conditions under which property shall be removed or abandoned, and to require the grantee to remove property at his expense when required by traffic conditions, safety, or other public reasons.

In addition to minimum compensation of 2 per cent of gross receipts, the city at its sole option is entitled to the use of one channel for no less than five hours each week in lieu of one-half of the computed dollar payment. Although it is not the plan of the city to utilize this provision immediately, the city will nevertheless have the opportunity should the need arise.

Interest in telemovies has spread to several other communities in the Southwest including Montrose, Colorado; Phoenix, Arizona; and Sante Fe, New Mexico.

Regulation of Pleasure Boats

In recent years there has been a great increase in the number and use of pleasure water craft, according to Report No. 378 of the House Committee on Merchant Marine and Fisheries entitled *Study of Recreational Boating Safety*. The report states that from 1947 to 1956 the number of pleasure craft in operation increased from 2,500,000 to approximately 6,000,000. A total of 4,545,000 outboard motors were in use in the United States, including 584,000 sold during 1956. Estimates reveal that 28,000,000 persons have taken part in recreational boating, making use of the waterways more than once or twice during 1956.

Due to this increased interest in pleasure boating, safety regulation has become an important problem at all levels of government. The Metropolitan Life Insurance Company reported to the Committee that 1,200 lives are lost annually in the United States as the result of accidents involving small boats.

The House committee recommended that existing laws applicable to recreational boating be

rised with a view to (a) simplification, (b) elimination of conflicting rules and requirements, and provision of basic authority for the United States Coast Guard to promulgate rules to meet the oblems of navigable waterways. The Committee also recommended that the states join with the leral government in early enactment of state laws modeled after or consistent with a basic fed-al law.

Following issuance of this report a joint committee of representatives of the Council of State vernments, the Committee on Merchant Marines and Fisheries, and the United States Coast ard assembled to consider courses of action which would be compatible with the constitutional ghts, interests, and responsibilities of the several states and the federal government. Tentative nclusions reached at this meeting were as follows:

1. The registration of undocumented boats (pleasure boats) should be handled by the states in ccordance with a system meeting federal standards. In states without registration laws or unac-ptable registration laws, boats would be registered by the Coast Guard. All motor-powered boats, ther than vessels required to be documented under existing federal law, would be subject to state gistration. All fees would be collected and retained for use by the registering authority.

2. The group would endeavor to draft properly coordinated state and federal laws which would e enforced concurrently with respect to the navigable waters of the United States. State authorities ould enforce state laws, and federal authorities would enforce federal laws. With the achievement f uniformity the effect would be to distribute the burden of enforcement between the state and fed-ral governments. Boat operators would not have to be acquainted with a hodge-podge of conflicting aws and regulations.

3. The model state law should conform as far as possible to the federal law in regard to such natters as safety equipment and rules of the road.

A bill, H. R. 8474, was introduced in Congress on July 1, 1957, which will be considered in the urrent session of Congress. The five basic objectives of this legislation are as follows: (1) To equire the registration every three years, for identification, of all motor-powered boats using the avigable waters of the United States, and to provide a fee for so doing and penalties for noncom-liance. (2) To give the Coast Guard civil penalty authority in addition to their present criminal enalty authority. (3) To direct the Coast Guard to define by regulation what acts or practices con-titute reckless or negligent operation of a boat. (4) To require certain assistance and reporting rom persons involved in boating accidents or collisions. (5) To declare it to be the policy of Con-ress that the Coast Guard and the states enter into agreements to insure the greatest possible uni-ormity of boating laws and enforcement procedures. It is hoped that states and municipalities will nact regulations in conformance with this law.

Many cities have already enacted boating regulations designed to promote water safety. Other ommunities, particularly in states where no boating laws are in effect, are finding an increased eed for such regulations. In other states, laws are in effect, but the state is doing little to enforce nem. If boating legislation and enforcement are to be undertaken by the city, one of several alter-atives may be chosen.

First, the city might wish to wait for the completion of federal legislation in this field or enact n ordinance to supplement the provisions of H. R. 8474 in anticipation of the passage of this act, articularly if the city is located near or adjacent to a federal waterway. Second, the community eed not enact any ordinance, but it may enforce with local officials state legislation now on the ooks or Coast Guard regulations if the city is located adjacent to federal waterways and in a state here no regulations exist. Third, a city may enact an ordinance which will be in agreement with tate pleasure boating legislation now in effect.

Two organizations which can assist in the preparation of an adequate boating ordinance are ne National Association of Engine and Boat Manufacturers, 420 Lexington Avenue, New York 17, nd the Outboard Boating Club of America, 307 North Michigan Avenue, Chicago 1. The Outboard oating Club of America has prepared a model ordinance which it is now revising to conform with ne proposed federal legislation.

Anonymity of Complainants

Anonymous complaints are a headache to the chief administrator and to other city officials. Too often they reflect neighborhood feuds which the city cannot resolve. All complaints must be considered, and most must be investigated to track down genuine violations of ordinances. It helps to make a rough classification of anonymous complaints so that action can be taken accordingly. Complaints can be considered as (1) clear-cut violations of city ordinances, (2) borderline violations of minor regulations, and (3) unwarranted complaints based on rumor or hearsay.

The question as to whether a complainant should remain anonymous depends upon the nature and source of the complaint. Generally it is desirable that a complaint be handled expeditiously and that the source of the complaint remain anonymous. However, in all situations this is not possible.

Clear-cut Complaints. When a complaint alleges a violation which, upon city investigation, can be established as true, there is no need to reveal the name of the complainant. A complainant is doing the city a service to report such violations since the acts may be infringing upon the rights and privileges of other citizens who either are afraid to report the violations or do not realize that there is an infraction of a law that should be remedied. For example, if it is reported that a new building is being erected closer to the property line than city ordinances permit, then it can be readily investigated and established. There is no need to report to the guilty party the source of the complaint — or even that a complaint has been received. This is a clear and direct violation of a city ordinance.

Borderline Violations. A citizen may be more reluctant to report the indirect type of violation. An example might be the case of a citizen draining his septic tank during the hours of darkness in violation of the city health code. Although this is an act which may not directly harm the neighbors, it nevertheless creates a health hazard with which the city is seriously concerned. The fact that a violation is of the indirect rather than the direct type should not influence the city procedure in dealing promptly with the complaint.

When a complaint alleges a violation which city investigation cannot clearly establish, or in which the wrong-doer cannot be established by investigation, it may be advisable to secure a signed statement from the complainant. For example, if the complainant contends that a neighbor is throwing refuse into an empty lot it would be difficult if not impossible for the city to prove that the neighbor had in fact done so. Prosecution by the city on the basis of oral information given by the complainant would not stand up in court unless the complainant is willing to appear. A signed statement provides the only firm ground in this case for city action.

Unwarranted Complaints. If a complaint is lodged regarding some trivial act of a neighbor, an act which may be in violation of the letter but not the spirit of a city ordinance or in violation of a provision which is not in practice being enforced, there may be little justification in pursuing the matter unless the complainant is willing to sign a statement against his neighbor. For example, if a party complains that his neighbor is not collecting his leaves or debris from his yard and allowing these to blow into the complainant's yard, in violation of the "litterbug" law, such a matter need not be pursued by the city unless the complaining party is willing to sign a written complaint.

Nearly every administration is faced with a chronic complainer who has something to report nearly every day or at least once a week. In this situation the chief administrator should consider the source as well as the nature of the complaint. Although a large percentage of such complaints may be unfounded and of an extremely trivial nature, such a citizen is nevertheless entitled to receive the proper attention to any legitimate complaint.

The chronic complainer is particularly troublesome for the chief administrator and department heads. For these complainers it is prudent to keep a written record, by the person's name, of each complaint (date noted, type of complaint, action taken if any, and so on). The record is useful if the citizen wishes to make an issue of city services with members of the city council.

Note: This report was prepared by David V. Fitzcharles, staff member, International City Managers' Association.